

UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF WISCONSIN

In the Matter of the Search of

information associated with Facebook user ID
https://www.facebook.com/richard.garner.18062,
Facebook ID 100038665373656, which is stored
at premises owned, maintained, controlled, or
operated by Facebook, Inc.

Case Number: 19-913M(NJ)

APPLICATION & AFFIDAVIT FOR SEARCH WARRANT

I, Kellen J. Williams, a federal law enforcement officer, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

See Attachment A

located in the Eastern District of Wisconsin there is now concealed:

See Attachment B

The basis for the search warrant under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of a crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Title 21, United States Code, Sections 841(a)(1) and 846.

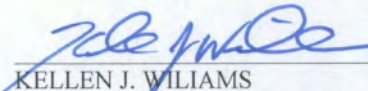
The application is based on these facts:

- ☒ Continued on the attached sheet, which is incorporated by reference.
- ☒ Delayed notice of 180 days (give exact ending date if more than 30 days: 02/24/2020) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

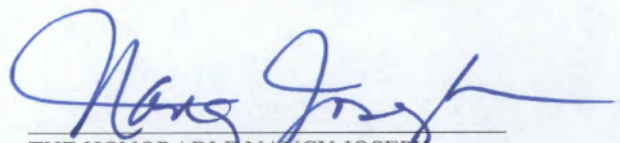
Sworn to before me, and signed in my presence.

Date August 28, 2019

City and state: Milwaukee, Wisconsin


KELLEN J. WILLIAMS

Special Agent, Drug Enforcement Administration


THE HONORABLE NANCY JOSEPH
United States Magistrate Judge
Name & Title of Judicial Officer

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Kellen J. Williams, being first duly sworn, hereby depose and state as follows:

I. INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), and Rule 41 of the Federal Rules of Criminal Procedure for information about Facebook account under the name "Richard Garner", with a Facebook identification address of <https://www.facebook.com/richard.garner.18062>, Facebook ID 100038665373656 ("**Target Account**"), whose provider is Facebook, a social networking company headquartered in Menlo Park, California. The **Target Account** is described herein, and in Attachment A, and the location information to be seized is described herein, and in Attachment B.

2. I have been employed as a Special Agent with the Drug Enforcement Administration ("DEA") since September 2012. I am currently assigned to the DEA Milwaukee District Office, High Intensity Drug Trafficking Area ("HIDTA"). As such, I am an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, in that I am empowered by law to conduct investigations of and to make arrests for federal felony offenses.

3. I have participated in numerous complex narcotics investigations which involved violations of state and federal controlled substances laws and money laundering laws including Title 21, United States Code, Sections 841(a)(1), 843(b) and 846, and Title 18, United States Code, Sections 1956 and 1957, and other related offenses. I have had both formal training and

4. I am currently participating in an investigation of a drug trafficking organization (“DTO”) operating in the Milwaukee, Wisconsin area. According to confidential source information, this DTO sends large amounts of fentanyl and heroin from California to Milwaukee, Wisconsin and other U.S. based destinations. The drug proceeds are then sent back to California to be delivered to unknown sources of supply.

5. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of Title 21, United States Code, Sections 841 and 846 have been committed, are being committed, and will be committed by Richard GARNER using Facebook account <https://www.facebook.com/richard.garner.18062>, Facebook ID 100038665373656 (“**Target Account**”), and others not yet identified. There is also probable cause to believe that the location information described in Attachment B will constitute evidence of these criminal violations, and will lead to the identification of individuals who are engaged in the commission of these offenses.

Background of Investigation

6. In July 2019, a confidential source (CS) contacted case agents and stated s/he was contacted recently on Facebook Messenger by Richard GARNER (“GARNER”), using Facebook account <https://www.facebook.com/richard.garner.18062>, Facebook ID 100038665373656 (“**Target Account**”). On July 18, 2019, GARNER sent the following message via Facebook Messenger from the **Target Account** to the CS: “Call Chicc 3235575699”. The CS stated “Chicc” or “Big Chicc” is a nickname for GARNER.

7. Case agents believe the CS’s information is credible and reliable for the following reasons: the CS has given case agents detailed and corroborated information concerning

St, Milwaukee, Wisconsin 53206.” The package was postmarked July 31, 2019 in Redondo Beach, CA 90278. The postage paid was \$14.35.

11. On August 2, 2019, Inspector Fink applied for and received a federal search warrant for the package. The search warrant was issued by United States Magistrate Judge Nancy Joseph in the Eastern District of Wisconsin. Upon executing the search warrant of the package, Inspector Fink discovered one bag containing a white powdery substance wrapped in several layers of saran wrap. Inspector Fink field tested the substance which field tested positive for fentanyl. The suspected fentanyl had a gross weight of approximately 1127 grams.

12. During subsequent analysis and follow up related to the package, Inspector Fink discovered similar packages sent from California to Michigan and Louisiana. The packages all had a hand-written label similar to the hand-written label on the package seized in Milwaukee. The packages mailed to Michigan and Louisiana, however, were already delivered. Additionally, case agents have developed information that GARNER has sent packages containing suspected fentanyl/heroin to Ohio.

13. As noted above, GARNER used the **Target Account** to contact the CS in furtherance of GARNER’s drug-trafficking activities. Furthermore, case agents believe GARNER uses the **Target Account** to contact other co-conspirators in furtherance of the organization.

14. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.Facebook>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

19. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

20. Facebook users can exchange private messages on Facebook with other users. Those messages are stored by Facebook unless deleted by the user. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a chat feature that allows users to send and receive instant messages through Facebook Messenger. These chat communications are stored in the chat history for the account. Facebook also has Video and Voice Calling features, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

21. If a Facebook user does not want to interact with another user on Facebook, the

would show when and from what IP address the user did so.

28. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

29. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated

CONCLUSION

32. Based on the forgoing, I request that the Court issue the proposed search warrant.

33. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the U.S. District Court for the Eastern District of Wisconsin is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

34. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

REQUEST FOR SEALING

35. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, Inc. ("Facebook"), regardless of whether such information is located within or outside of the United States, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each Facebook account listed in Attachment A:

- (a) All contact and personal identifying information for the following Facebook user ID:

<https://www.facebook.com/richard.garner.18062>, Facebook ID 100038665373656
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities from January 1, 2019 to August 28, 2019;
- (c) All photos and videos uploaded by the user IDs and all photos and videos uploaded by any user that have that user tagged in them from January 1, 2019 to August 28, 2019, including Exchangeable Image File ("EXIF") data and any other metadata associated with those photos and videos;
- (d) All profile information; News Feed information; status updates; videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments;

- (p) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook user has been blocked by the accounts;
- (q) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

Facebook is hereby ordered to disclose the above information to the government by September 12, 2019 or 14 days of service of this warrant.